

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 92-117

In the Matter of)
)
Amendment to Section 1.773 of the)
Commission's Rules Regarding)
Pleading Cycle for Petitions)
Against Tariff Filings Made)
on 14 Days' Notice)

ORIGINAL
FILE

COMMENTS OF BELL ATLANTIC¹

The Commission should modify in two respects its proposal regarding petitions against fourteen day tariff filings.² First, replies should normally be due three days after petitions are filed, as proposed, but that period should be extended, if necessary, to give the replying party at least two business days to prepare and file a reply. Second, petitioners against the tariff should be permitted to serve petitions either by personal service or facsimile and should be required to document, on request, that an individual designated by the filing carrier was served directly.

The Commission justifies a rule change on the basis that, under the existing rules, replies to petitions to suspend or reject fourteen day tariff filings could be due after the effective date of the tariff.³ As a result, the Commission would

¹ The Bell Atlantic telephone companies ("Bell Atlantic") are The Bell Telephone Company of Pennsylvania, the four Chesapeake and Potomac telephone companies, The Diamond State Telephone Company and New Jersey Bell Telephone Company.

² The proposed rule changes appear in the Appendix.

³ Notice of Proposed Rulemaking, 7 FCC Rcd 3386 (1992) ("Notice").

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not have the benefit of the filing carrier's reply when ruling on petitions.⁴ Shortening the procedural dates will allow the Commission to receive the full record before ruling.

The proposed Rules, however, could give the filing carrier less than a day to prepare and file a reply. For example, if a petition is filed late on a Friday afternoon, the person who would prepare the reply may not actually receive it until the following Monday, which is the day the reply would be due.⁵ The filing carrier may be unable to provide the Commission with a meaningful reply in such a short time. To avoid this, Bell Atlantic proposes that the filing carrier should always have a minimum of two business days to prepare and file a reply. This change would defer the reply date a maximum of one day but would provide the Commission with a better record on which to base a decision.

The Commission should also add language to its Rules to help ensure that a petition immediately reaches an appropriate individual and that it is not simply left with a security guard in the filing carrier's building. If the filing carrier designates in its transmittal letter the name, address, telephone

⁴ In practice, the Commission staff asks the filing carrier to defer the effective date of the tariff. This is inconsistent with the reasons for allowing short-notice filings -- to give the public new services as quickly as possible and to allow dominant carriers to compete more effectively against carriers that need not file tariffs for new services or price changes.

⁵ Although the Commission proposes that the petitioner serve the filing carrier personally, that service could be made with a security guard late in the day, after those who would prepare a response had left the office.


number and facsimile number of an individual to receive petitions, the petitioner should be required to serve that individual, either personally or by facsimile.⁶ Such service should be confirmed either by the signature of the recipient (in the case of personal service) or by telephone (if service is by facsimile) and documentation of such confirmation should be retained.⁷

With these changes, the Commission should adopt the proposed Rules.

Respectfully submitted,

**The Bell Atlantic Telephone
Companies**

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⁶ If receipt of service is properly documented, Bell Atlantic agrees that facsimile service may substitute for personal service. See Notice at ¶ 5.

⁷ To help ensure that someone is available to accept service for the designated individual when service is made, the Commission should suggest that a petitioner inform the individual by telephone as early as possible on the day of filing that it intends to file a petition and how it proposes to effect service.

APPENDIX

Proposed Changes To Proposed Rules

(Suggested Additional Language Is Italicized)

The second sentence of § 1.773(a)(4) should be revised to read as follows:

Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on less than 15 days notice shall be ~~personally~~ served on the filing carrier either by *personal service or by facsimile to the individual designated in the tariff filing for such purpose*, and the petitioner shall provide documentation to the Commission upon request that such service was effected.

§ 1.773(b)(1)(i) should be revised to read as follows:

Replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on less than 15 days notice shall be filed and served within *the later of (a) 3 days or (b) two days that are not holidays* after service of the petition.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Comments of Bell Atlantic" was served this 23rd day of July, 1992, by delivery thereof by first class mail, postage prepaid, to the parties on the attached list.



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